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Via ECF

Honorable Philip M. Halpern, U.S.D.J.
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Stephenson v. Exclusive Motor-Sports LLC, et al.*
Southern District of New York, Case No. 20-CV-1332 (PMH)

Dear Judge Halpern:

My office represents the plaintiff Dana Stephenson in the above-referenced case. As per Rule 2.C of Your Honor's Individual Practices in Civil Cases, we write to request a pre-motion conference concerning an anticipated motion for leave to file a third amended complaint. A copy of the proposed Third Amended Complaint is attached hereto as Exhibit 1. A redlined version of the Third Amended Complaint, showing changes from the Second Amended Complaint, is attached hereto as Exhibit 2.

Plaintiff and Defendant Bethpage Federal Credit Union ("BFCU") have exchanged the first round of pre-motion letters as per Rule 4.C.ii of Your Honor's Individual Practices.¹ Although the time to amend the complaint provided by the scheduling order has now passed, Your Honor's Individual Practices permits Plaintiff to seek leave to amend to address any deficiencies identified in this exchange of letters. Such an amendment is to be liberally granted, echoing the standard under Fed. R. Civ. P. 15(a). *See* Fed. R. Civ. P. 15(a)(2) ("The court should freely give leave [to amend] when justice so requires.").

The Third Amended Complaint addresses issues BFCU has raised concerning Count VII of the Second Amended Complaint. The proposed amendments are designed to explicate and clarify BFCU's direct liability under New York General Business Law § 349, as opposed to its liability for actions taken by Exclusive Motor Sports. In particular, the Third Amended Complaint adds allegations concerning (1)

¹ On October 13, 2020, counsel for Defendants Exclusive Motor-Sports LLC, Exclusive Motor Sports & Collision Center LLC, and Exclusive Motor Cars LLC (collectively, "Exclusive Motor Sports") also submitted a letter pursuant to Rule 4.C.ii noting its objections to Count VII. However, Plaintiff does not intend to make any amendments to the Complaint in response to that letter.

the consumer-oriented nature of BFCU's actions, (2) the ongoing nature of BFCU's deceptive conduct, and (3) the harm to Plaintiff arising out of that deceptive conduct.

Plaintiff is hopeful that these proposed amendments will both strengthen Plaintiff's claims and head off a motion to dismiss. The proposed amendments do not prejudice Defendants because discovery has only just started and Plaintiff is not adding any new claims.

Respectfully,

/s/ Joshua Tarrant-Windt

Joshua Tarrant-Windt

cc: All Counsel of Record (Via ECF)